

LOS ANGELES POLICE COMMISSION

REVIEW OF THE DEPARTMENT'S GANG ENFORCEMENT DETAIL COMMAND ACCOUNTABILITY PERFORMANCE AUDITS



Conducted by the

OFFICE OF THE INSPECTOR GENERAL

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**OFFICE OF THE INSPECTOR GENERAL
REVIEW OF THE DEPARTMENT’S GANG ENFORCEMENT DETAIL
COMMAND ACCOUNTABILITY PERFORMANCE AUDITS**

PURPOSE OF REVIEW

The Office of the Inspector General (OIG), in accordance with the Transition Agreement and pursuant to its Audit and Review Plan, has completed its second review of the Los Angeles Police Department’s (Department) Gang Enforcement Detail (GED) Command Accountability Performance Audits (CAPAs). This OIG review assessed the CAPAs’ completeness, quality, and findings with respect to supervisory oversight of the GED units.

BACKGROUND

The Department entered into a Transition Agreement with the United States Department of Justice, effective July 20, 2009. The Transition Agreement focuses on four areas: gang units, financial disclosure, biased policing, and the Training Evaluation and Management System II. This review involves the CAPAs of the gang units.

Internal Audits and Inspections Division (IAID) completed a total of 60 GED CAPAs from January 2005 through September 2010. These CAPAs are conducted by a specialized audit section within IAID comprised of nine sworn and civilian employees, headed by a Detective III. The IAID’s stated purpose in its CAPA reports is “to provide useful information to Department management related to an Area/Bureau GED work product, supervision, gang intelligence gathering, criminal complaint process, and case categorization.”

The CAPAs completed by IAID in 2009 and 2010 had the following 5 objectives and 17 topics:

<i>Objectives</i>	<i>Topics</i>
Evaluation of:	
1. Work Product	Arrest Reports, Search Warrants
2. Supervisory Roles – Approvals, Feedback & Reviews	Detention Logs, Daily Field Activity Reports, GED - Supervisor’s Daily Reports, Performance Evaluations, Arrest Reports, Search Warrants, Non-Categorical Use of Force (NCUOF) Investigations
3. Gang Intelligence Information	Cal Gang Database, Contact Cards, Gang History Books, Gang Photograph Books
4. Criminal Complaints	Supervisory Bypasses, Releases from Custody
5. Case Categorization	Category 1 (most serious and solvable), Category 2 (other)

OIG REVIEW METHODOLOGY AND SCOPE

In its first review of CAPAs (report issued July 13, 2010), the OIG reviewed all five CAPAs completed from January 1 through December 15, 2009. In this second review of CAPAs, the OIG *judgmentally* (instead of *randomly*) selected and reviewed 4 of the 14 CAPAs completed from December 16, 2009, through September 30, 2010.¹

¹ These four CAPAs had a larger-than-average volume of work product and were audited by four different IAID audit teams. This methodology enabled the OIG to provide feedback to IAID on the work of a larger number of auditors, and to evaluate for the first time the work product of several new IAID audit employees.

To determine the adequacy of supervisory oversight, the OIG reviewed three CAPA objectives: Work Product, Supervisory Roles, and Criminal Complaints. Within these objectives, the OIG tested the following seven topics: (1) Arrest Reports, (2) search warrants, (3) detention logs, (4) GED - Supervisor's Daily Reports, (5) performance evaluations, (6) NCUOF investigations, and (7) supervisory bypasses (arrest cases forwarded to the City Attorney rather than the District Attorney). The OIG determined that the foregoing seven topics were the most directly related to supervisory oversight and were the highest risk (i.e., could potentially cause the most significant negative consequences to the Department if the related policies and procedures were not complied with). The table below summarizes the compliance rates reported by IAID, per CAPA, for each of these seven topics.

CAPA Topic	Hollenbeck	Harbor	West Valley	Pacific
Arrest Reports	90%	88%	100%	90%
Search Warrants	100%	100%	NA ²	100%
Detention Logs	96%	100%	100%	100%
GED - Supervisor's Daily Reports				
1. Documented mission and activities	100%	100%	100%	100%
2. Report contained signature of C/O	93%	100%	100%	100%
Performance Evaluations				
1. Contained most recent evaluation	100%	100%	100%	100%
2. Narratives unique to employee	100%	100%	100%	100%
NCUOF Investigations	NA	NA	NA	NA
Supervisory Bypasses	100%	100%	100%	NA

For the seven selected CAPA topics, IAID tested a total of 354 work products, of which the OIG tested 130 work products (see table below). For its testing of Arrest Reports, GED - Supervisor's Daily Reports, and performance evaluations, the OIG randomly selected sub-samples calculated based on a 95% confidence level, an expected error rate of 6%, and a plus-precision of 6% due to the large quantity of work product.³ The OIG tested 100% of the work product for search warrants and supervisory bypasses due to the small quantity of work product for each of those topics.

² "Not Applicable" means there was no applicable work product in the Deployment Period (DP) tested.

³ This sample size calculation formula is a generally accepted auditing practice. A detailed explanation of each parameter is available from the OIG Audit Section.

CAPA Topic Deployment Period	Hollenbeck DP 7/09	Harbor DP 9/09	West Valley DP 10/09	Pacific DP 11/09	Total IAID	Total OIG
Arrest Reports	31	32	7 ⁴	10	80	28
Search Warrants	2	6	NA	1	9	9
Detention Logs	25	28	7	10	70	28
GED - Supervisor's Daily Reports	45	15	17	24	101	31
Performance Evaluations	37	20	13	19	89	29
NCUOF Investigations	NA	NA	NA	NA	NA	NA
Supervisory Bypasses	3	1	1 ⁵	0	5	5
Totals	143	102	45	64	354	130

The OIG conducted this review in accordance with generally accepted government auditing standards. These standards require that the review be adequately planned, performed, and supervised and that sufficient, appropriate evidence be examined to provide a reasonable basis for the results and conclusion.

OIG REVIEW OBJECTIVES

The OIG reviewed the audit work associated with each of the seven selected topics in the five CAPAs for completeness, quality, and findings as follows:

Completeness

- Determine if each CAPA tested and reported a compliance rate for each topic.
- Determine if the CAPA samples for each topic were selected from complete populations.

Quality

- Determine if appropriate CAPA sampling methodologies and testing questions were used for each topic.
- Determine if there was evidence of supervisory review for each topic.
- Determine if the CAPAs completely and accurately reported the purpose, methodology, objectives, and results for each topic.

Findings

- Determine if all significant findings identified by the OIG were also identified and reported by IAID.
- Determine if the findings reported by IAID represented valid issues.

⁴ The deployment period for the review of arrest reports was expanded to include DP 9 (August 16 – September 12, 2009) and DP 11 (October 11 – November 7, 2009) in order to provide a larger sample.

⁵ The IAID appropriately reviewed a supervisory bypass from DP 10, 2009, although their CAPA report inadvertently stated that it was from another DP.

OVERALL REVIEW RESULTS

Completeness

The OIG determined that each CAPA tested and reported a compliance rate for each topic, and the CAPA samples for each topic were selected from complete populations. Hence, the auditing and reporting associated with each topic met the OIG's standard for completeness.

Quality

The OIG determined that appropriate CAPA sampling methodologies and testing questions were used for each topic, and there was evidence of supervisory review for each topic. Also, the CAPAs completely and accurately reported the purpose, methodology, objectives, and results for each topic. Hence, the auditing and reporting associated with each topic met the OIG's standard for quality.

Findings

All significant findings identified by the OIG were also identified and reported by IAID. Furthermore, the findings reported by IAID represented valid issues. Hence, the auditing and reporting associated with each topic met the OIG's standard for findings.

ARREST REPORTS

CAPAs' Scope and Reported Compliance Rates

The IAID reviewed 80 Arrest Reports in the four CAPAs. Each Arrest Report was tested for compliance with Department policies and procedures, with the following compliance rates reported:

<i>Hollenbeck</i>	<i>Harbor</i>	<i>West Valley</i>	<i>Pacific</i>
90%	88%	100%	90%
(28/31)	(28/32)	(7/7)	(9/10)

OIG Review Methodology

The OIG reviewed the audit testing associated with Arrest Reports in the four CAPAs for completeness, quality, and findings, as previously described. The OIG randomly selected and reviewed a sub-sample of 28 Arrest Reports of the 80 audited by IAID. This sub-sample size was calculated based on a 95% confidence level, an expected error rate of 6%, and a plus-precision of 6%. The OIG re-performed IAID's work by answering the following 19 questions deemed to be of the highest-risk (i.e., potentially cause the most significant consequences to the Department if the related policies and procedures were not complied with):⁶

1. Were the Arrest Report face sheet and related narrative and Booking Approval properly completed?
2. Was the Arrest Report properly approved?
3. Was the Booking Approval properly approved by a watch commander?

⁶ The IAID answered other questions, but they were considered by the OIG to be of lower risk.

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4. Was reasonable suspicion for the detention of each arrestee adequately articulated?
5. Was probable cause for the arrest of each arrestee adequately articulated?
6. Was each arrestee properly advised of his/her *Miranda* rights, with this admonition documented?
7. Was the arrestee transported to the Area station, not to an off-site location?
8. Did the watch commander inspect and interview the arrestee?
9. If the arrestee required medical treatment, was medical treatment provided?
10. Was there a legal basis to conduct each search and was the basis documented?
11. Was there a legal basis to seize each item of evidence/property from the arrestee?
12. Does all pertinent/relevant information reconcile between the Arrest Report, Property Report, and Receipt for Property Taken into Custody?
13. Are there any indications that the arrestee consented to the search?
14. Was on-scene supervision adequate, if applicable?
15. If the arrestee was a juvenile, was a Juvenile Arrest Supplemental Report completed?
16. If the arrestee was a juvenile, were the parents/guardians notified?
17. If this arrestee was a juvenile, was an entry made on the correct Juvenile Detention Log?
18. Was probable cause based on the arrestee resisting arrest, assaulting, or interfering with the officer?
19. For multi-arrests only, were there no issues regarding authenticity, supervisory oversight, or conformance with Department policy?

OIG Review Results

The OIG determined that the audit testing associated with Arrest Reports met the OIG's standard for completeness, quality, and findings.

Other Matter

Testing Requirement to Issue Marsy's Rights Card to Victims

On November 4, 2008, California voters passed Proposition 9, which is also known as Marsy's Law – The Victim's Bill of Rights Act of 2008. Marsy's Law mandates that victims of **any** criminal act be notified of their Victim's Bill of Rights and provided a Marsy's Rights Card.

Per Special Order No. 43, 2009, effective August 24, 2009, victims of any criminal act are to be issued a Marsy's Rights Card. This requirement was reiterated as a Standardized Roll Call Training Lesson Plan in DP 11, 2009. However, the OIG noted that as of December 2010, this requirement was not being tested in the CAPAs.

Response of IAID Management: For the next cycle of CAPAs beginning in 2011, IAID will test for compliance with this Marsy's Rights Card requirement.

SEARCH WARRANTS

CAPAs' Scope and Reported Compliance Rates

The IAID reviewed nine search warrants in the four CAPAs, evaluating each warrant for compliance with Department policies and procedures. The compliance rates reported were as follows:

<i>Hollenbeck</i>	<i>Harbor</i>	<i>West Valley</i>	<i>Pacific</i>
100%	100%	NA	100%
(2/2)	(6/6)	NA	(1/1)

OIG Review Methodology

The OIG reviewed the audit testing associated with search warrants in the four CAPAs for completeness, quality, and findings, as previously described. The OIG re-performed the same tests performed by IAID for all nine search warrants, answering the seven questions:

1. Did a magistrate approve the search warrant and affidavit prior to service?
2. Was the warrant properly documented on the Warrant Tracking Log?
3. Was the warrant served within the required 10-day period?
4. Were the Warrant Service/Tactical Plan Report and Return to Service completed timely?
5. Was a supervisor of the rank of Lieutenant or above present during the warrant service?
6. Were confidential informants (if any) properly used?
7. Was there consistency between the evidence seized and the description of the property to be seized as documented in the search warrant?

OIG Review Results

The OIG determined that the audit testing associated with search warrants met the OIG's standard for completeness, quality, and findings.

DETENTION LOGS

CAPAs' Scope and Reported Compliance Rates

The IAID reviewed 70 Arrest Reports requiring detention log entries in the four CAPAs. The IAID evaluated the detention log entries for each arrestee for compliance with Department policies and procedures. The compliance rates reported were as follows:

<i>Hollenbeck</i>	<i>Harbor</i>	<i>West Valley</i>	<i>Pacific</i>
96%	100%	100%	100%
(24/25)	(28/28)	(7/7)	(10/10)

OIG Review Methodology

The OIG reviewed the audit testing associated with detention logs in the four CAPAs for completeness, quality, and findings, as previously described. The OIG reviewed the detention logs simultaneously during its review of the Arrest Reports selected. There were 28 detention logs reviewed by the OIG in its sub-sample. This sub-sample was based on the Arrest Reports that were randomly selected and calculated based on a 95% confidence level, an expected error rate of 6%, and a plus-precision of 6%. The OIG re-performed the same tests performed by IAID, answering the following three questions for each arrestee:

1. Did the detention log for this arrestee indicate that the watch commander inspection and interview boxes were checked?
2. Based on the results of the inspection, did the watch commander take appropriate action?
3. Does the detention log for this arrestee/juvenile include the name of the watch commander or designee in the "Watch Commander's Signature" box?

OIG Review Results

The OIG determined that the audit testing associated with detention logs met the OIG's standard for completeness, quality, and findings.

Other Matter

Testing Requirement to Observe Detained Juveniles at Least Once Every 30 Minutes

Regarding detention logs, the CAPAs did not test for compliance with the following important requirement. The Department Manual, Volume 4, Section 218.66, "Temporary Detention of Juveniles at Department Facilities" requires that:

Juveniles securely detained in a locked room or enclosure shall be randomly checked by a Department employee not more than 30 minutes following any previous observation, and shall be able to be heard by a Department employee at all times; Observation by television monitor is not sufficient. A Department employee shall make random, unscheduled, in-person observations. The time of the observation and the observing employee's initials shall be recorded on the Secure Juvenile Detention Log, Form 09.05.00.

Response of IAID Management: For the next cycle of CAPAs beginning in 2011, IAID will test for compliance with this 30-minute juvenile observation requirement.

GED - SUPERVISOR'S DAILY REPORTS

CAPAs' Scope and Reported Compliance Rates

The IAID reviewed 101 GED - Supervisor's Daily Reports (SDRs) in the four CAPAs. The IAID evaluated each SDR for the following two objectives: (1) to determine if the SDR documented the mission and activities, and (2) to determine if the SDR contained the signature of the commanding officer. The compliance rates reported were as follows:

<i>Objective</i>	<i>Hollenbeck</i>	<i>Harbor</i>	<i>West Valley</i>	<i>Pacific</i>
1	100% (45/45)	100% (15/15)	100% (17/17)	100% (24/24)
2	93% (42/45)	100% (15/15)	100% (17/17)	100% (24/24)

OIG Review Methodology

The OIG reviewed the audit testing associated with SDRs for completeness, quality, and findings, as previously described. The OIG randomly selected and reviewed a sub-sample of 31 SDRs of the 101 audited by IAID. This sub-sample size was calculated based on a 95% confidence level, an expected error rate of 6%, and a plus-precision of 6%. The OIG tested for the aforementioned two audit objectives.

OIG Review Results

The OIG noted that IAID did not report that a Hollenbeck GED supervisor failed to prepare an SDR as required for a day that he was supervising gang units.⁷ As this was the OIG's only issue, the OIG determined that the audit testing associated with SDRs met the OIG's standard for completeness, quality, and findings.

Other Matter

Recording Available Field Time on the SDRs

Although not related to the aforementioned SDR audit objectives, the OIG noted that there were several supervisors that recorded exactly the same amount of *Available Field Time* each day on the SDR. Special Order No. 20, June 2003, *Gang Enforcement Detail – Supervisor's Daily Report* specifies that Available Field Time "shall indicate the total amount of time the supervisor was available to respond to requests and perform proactive supervisory duties."

From the OIG's sample of 31 SDRs, 8 were found to show repetition in recording Available Field Time. Their sample included four supervisors who each recorded two SDRs. For each of two SDRs, the supervisors recorded the same amount of available field time each day (10, 6, 5 and 3 hours, respectively). This repetitive recording of time suggests that supervisors may be inaccurately recording Available Field Time as defined by Special Order No. 20.

⁷ Monday, July 13, 2009, 1300 to 2300 hours.

Recommendation: The OIG recommends that the Department revise the SDR completion procedures to require that *Actual Field Time* (instead of *Available Field Time*) be recorded on the SDRs, with *Actual Field Time* defined.

Response of Director, Office of Operations, to Recommendation: Office of Operations concurs that SDR completion procedures should be revised to require that *Actual Field Time* (instead of *Available Field Time*) be recorded on the SDRs, with *Actual Field Time* defined. These procedures will be applicable for both gang-unit and patrol supervisors.

PERFORMANCE EVALUATIONS

CAPAs' Scope and Reported Compliance Rates

The IAID reviewed 89 GED employee performance evaluations in the four CAPAs. The IAID evaluated each annual performance evaluation for two objectives: (1) to determine if a current completed Performance Evaluation Report (PER) or Standards Based Assessment form (SBA) was on file, and (2) to determine if the applicable PER/SBA on file contained narratives unique to the employee (i.e., not canned language).⁸ The compliance rates reported were as follows:

<i>Objective</i>	<i>Hollenbeck</i>	<i>Harbor</i>	<i>West Valley</i>	<i>Pacific</i>
1	100% (37/37)	100% (20/20)	100% (13/13)	100% (19/19)
2	100% (37/37)	100% (20/20)	100% (13/13)	100% (19/19)

OIG Review Methodology

The OIG reviewed the audit testing associated with performance evaluations for completeness, quality, and findings, as previously described. The OIG randomly selected and reviewed a sub-sample of 29 annual PERs/SBAs. This sub-sample size was calculated based on a 95% confidence level, an expected error rate of 6%, and a plus-precision of 6%. The OIG tested for the aforementioned two audit objectives.

OIG Review Results

The OIG determined that the audit testing associated with performance evaluations met the OIG's standard for completeness, quality, and findings.

Other Matter

Limited-Scope Review of Performance Evaluations in CAPAs

The OIG noted that IAID reviews Arrest Report packages in its CAPAs using the same comprehensive, detailed audit program (matrix) used in its Department-wide audit of Arrest Report packages. This program has 5 audit objectives and 24 sub-objectives.

⁸ The SBA replaced the PER in January 2009.

In contrast, in reviewing performance evaluations in its CAPAs, the OIG noted that IAID does *not* use the same comprehensive, detailed audit program (matrix) used in its Department-wide inspection of performance evaluations. The CAPA review of performance evaluations has only two objectives, to determine if: (1) a current completed PER or SBA is on file, and (2) the applicable PER/SBA on file contains narratives unique to the employee. In contrast, the Department-wide inspection of performance evaluations has 11 objectives, to determine if:

1. The SBA was completed within 60 days of the current rank anniversary date.
2. All applicable sections of the SBA were completed.
3. The Field Training Officer (FTO)/supervisor attachments were included.
4. The *Comments* section of the SBA was properly completed.
5. The required supporting documentation was attached for *Greatly Exceeds Standards* and *Needs Improvement* ratings.
6. Supporting documentation was completed within three months of the applicable incident.
7. Supporting documentation was event specific.
8. Supporting documentation justified *Greatly Exceeds* and *Needs Improvement* ratings.
9. The *Duties* section of the SBA was properly completed.
10. The *Most Significant Contribution* section of the SBA was properly completed.
11. The *Training/Employee Development* Section of the SBA was properly completed.

The OIG is concerned that the Department may not be giving adequate audit coverage to gang officer performance evaluations. According to LAPD Manual Section 1/665.30, "*The vitality of the Department is maintained through the selection and promotion of the most qualified personnel to positions of increased responsibility. The Department must help in the selection process by accurately rating and evaluating employees and candidates for promotion and by advancing the most qualified.*"

Response of IAID Management: For the next cycle of CAPAs beginning in 2011, IAID will expand the scope of their testing of SBAs to include more audit objectives/sub-objectives.

NON-CATEGORICAL USE OF FORCE (NCUOF) INVESTIGATIONS

Background

The Department defines a NCUOF as an incident in which a Department employee uses a less-lethal control device or physical force to compel a person to comply with directions, overcome resistance of a person during an arrest or detention, or defend any individual from an aggressive action by another person. Uninvolved Area supervisors investigate NCUOF incidents. Area and Bureau management review each NCUOF investigation, and the Commanding Officer of Use of Force Review Division determines the final adjudication.

CAPAs' Scope and Reported Compliance Rates

The IAID performed no testing of NCUOF investigations in the 14 CAPAs, including the 4 reviewed by the OIG, because none were completed during the DP tested.

OIG Review Methodology

As no NCUOF investigations were audited by IAID, none were reviewed by the OIG.

Other Matter

Auditing NCUOF Investigations in CAPAs

As noted in the Background, NCUOF investigations are conducted by uninvolved Area supervisors, not by GED supervisors. Hence, auditing NCUOF investigations does not provide information about GED supervisors, and adds no value to the GED CAPAs. However, IAID should continue to verify that a NCUOF investigation was indeed initiated during the DP, when there is evidence in an Arrest Report of a reportable NCUOF.⁹

Response of IAID Management: Beginning in early 2011, IAID will discontinue reviewing NCUOF investigations in its CAPAs, as a comprehensive, detailed review is not practical/feasible due to time constraints. However, IAID will continue to verify that a NCUOF investigation was initiated when there is indication in an Arrest Report of a reportable NCUOF.

SUPERVISORY BYPASSES

Background

The California Penal Code allows prosecutors to file misdemeanor charges for some crimes that may be either a felony or misdemeanor.¹⁰ For such cases, the Department's supervisory bypass allows a detective supervisor to forward the Arrest Report directly to the City Attorney's Office for misdemeanor filing where the defendant is not on probation of parole, not a repeat offender, or where additional investigation would not enable detectives to seek a felony complaint.

CAPAs' Scope and Reported Compliance Rates

The IAID reviewed all five supervisory bypasses in the four CAPAs. The IAID evaluated the supervisory bypasses for compliance with Department policies and procedures. The compliance rates reported were as follows:

<i>Hollenbeck</i>	<i>Harbor</i>	<i>West Valley</i>	<i>Pacific</i>
100%	100%	100%	NA
(3/3)	(1/1)	(1/1)	NA

OIG Review Methodology

The OIG reviewed the audit testing associated with supervisory bypasses in the four CAPAs for completeness, quality, and findings, as previously described. The OIG reviewed all five

⁹ Presently, audits and reviews conducted by both IAID and the OIG evaluate whether NCUOF investigations are conducted by non-involved supervisors on Department-wide basis, including gang units.

¹⁰ Cal. Penal Code § 17(b)(4).

supervisory bypasses audited by IAID. The OIG re-performed the same tests performed by IAID, answering the following five questions for each supervisory bypass:

1. Was the crime an alternate felony/misdemeanor offense?
2. Did the arrest involve only bypassable booking charges?
3. Was the supervisory bypass appropriate based on Department policy?
4. Was the arrest that was bypassed appropriate based upon review of the arrestee's prior record, the severity of the crime, and the probability of continued criminal conduct?
5. Was the arrestee a documented gang member as defined by Penal Code § 186.22(f)?

OIG Review Results

The OIG determined that the audit testing associated with supervisory bypasses met the OIG's standard for completeness, quality, and findings.

RECOMMENDATION

The OIG recommends that the Department revise the SDR completion procedures to require that *Actual Field Time* (instead of *Available Field Time*) be recorded on the SDRs, with *Actual Field Time* defined.

RESPONSE OF DIRECTOR, OFFICE OF OPERATIONS, TO RECOMMENDATION

Office of Operations concurs that SDR completion procedures should be revised to require that *Actual Field Time* (instead of *Available Field Time*) be recorded on the SDRs, with *Actual Field Time* defined. These procedures will be applicable for both gang-unit and patrol supervisors.

RESPONSE OF IAID MANAGEMENT TO THE REVIEW

Management of IAID agreed with the results of this review.

CONCLUSION

The OIG concluded that the Department's CAPAs and the associated audit reports met the OIG's standard for completeness, quality, and findings. This conclusion was supported by the OIG's re-performance of the audit tests performed by IAID on 130 work products prepared by 4 Area GED units.